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[¶12,098] **In the Matter of United Orient Bank, New York, New York**, Docket No. 03-130b (9-30-03).

A cease and desist order was issued, based on findings by the FDIC that it had reason to believe that respondent was engaged in unsafe and unsound practices.

[.1] **Management—Qualifications Specified**

[.2] **Management—Management Report Required**

[.3] **Golden Parachute Payments—Prohibited**

[.4] **Ethics—Written Policy Required**

[.5] **Suspicious Activity Report—Review of Cash Transactions Required**

[.6] **Bank Secrecy Act—Compliance**

[.7] **Suspicious Activity Report—Filing of Required**

[.8] **Customer Due Diligence Program—Minimum Requirements**

[.9] **Audit—Review of Policies Required**

[.10] **Loan Policy—Unsafe and Unsound Practices—Written Plan Required**

[.11] **Bank Operations—Internal Routine and Control Procedures—Written Plan Required**

[.12] **Violations of Law—Corrections of Violations Required**

[.13] **Profit Plan—Preparation of Plan Required**

[.14] **Board of Directors—Committee to Review Compliance with Cease and Desist Order Required**

[.15] **Progress Report—Written Report Required**

[.16] **Investments and Investment Policy—Investment Policy, Preparation or Revision Required**

**In the Matter of
UNITED ORIENT BANK
NEW YORK, NEW YORK
(Insured State Nonmember Bank)
ORDER TO CEASE AND DESIST**

FDIC-03-130b

UNITED ORIENT BANK, NEW YORK, NEW YORK ("Insured Institution", having been advised of its right to a Notice of Charges and of Hearing detailing the unsafe or unsound banking practices and violations of law and/or regulations alleged to have been committed by the Insured Institution and of its right to a hearing on the alleged charges under section 8(b)(1) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. §1818(b)(1), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT") with counsel for the Federal Deposit Insurance Corporation ("FDIC"), dated September 30, 2003, whereby solely for the purpose of this proceeding and without admitting or denying the alleged charges of unsafe or unsound banking practices and violations of law and/or regulations, the Insured Institution consented to the issuance of an ORDER TO CEASE AND DESIST ("ORDER") by the FDIC.

The FDIC considered the matter and determined that it had reason to believe that the Insured

Institution had engaged in unsafe or unsound banking practices and had committed violations of law and/or regulations. The FDIC, therefore, accepted the CONSENT AGREEMENT and issued the following:

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED that the Insured Institution, its directors, officers, employees, agents, and other institution-affiliated parties (as that term is defined in Section 3(u) of the Act, 12 U.S.C. §1813(u)), and its successors and assigns cease and desist from the following unsafe or unsound banking practices and violations:

(a) operating with management whose policies and practices are detrimental to the

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Insured Institution and jeopardize the safety of its deposits;

(b) operating with a Board of Directors that has failed to provide adequate supervision over and direction to the active management of the Insured Institution;

(c) engaging in violations of applicable Federal laws and regulations including, but not limited to, the Bank Secrecy Act, 31 U.S.C. §§ 5311-5330, and 31 C.F.R. Part 103 (hereinafter "BSA"), section 326.8 of the FDIC's Rules and Regulations, 12 C.F.R. §326.8, Part 353 of the FDIC's Rules and Regulations, 12 C.F.R. Part 353, and Part 300 of the Superintendent's Regulations, 3 NYCRR Part 300 ("Part 300"), as more fully described on pages 14 through 23 of the joint Report of Examination of the Insured Institution by the FDIC and the New York State Banking Department ("Banking Department") as of September 30, 2002 ("ROE");

(d) engaging in hazardous lending and lax collection practices;

(e) operating in such a manner as to produce low earnings;

(f) operating with inadequate internal routine and controls policies, including, but not limited to inadequate audit policies and procedures;

(g) operating with an inadequate ethics policy; and

(h) operating with inadequate investment policies and procedures.

IT IS FURTHER ORDERED that the Insured Institution, its institution-affiliated parties, and its successors and assigns, take affirmative action as follows:

[.1]1. (a) During the life of this ORDER, the Insured Institution shall have management qualified to restore the Insured Institution to a sound condition.

(b) Management shall be assessed on its ability to:

(i) Comply with the requirements of this ORDER;

(ii) Improve and thereafter maintain the Insured Institution in a safe and sound condition, including asset quality, management effectiveness, capital adequacy, liquidity adequacy, and earnings adequacy; and

(iii) Comply with all applicable State and Federal laws, regulations and FDIC and Federal Financial Institutions Examination Council ("FFIEC") policy statements.

(c) (i) During the life of this ORDER, the Insured Institution shall notify the Regional Director of the New York Regional Office ("Regional Director") in writing of any resignation and/or terminations of any members of its Board of Directors and/or any of its senior executive officer(s) within 15 days of the event.

(ii) The Insured Institution shall comply with section 32 of the Act, 12 U.S.C. §1831i, and Subpart F of Part 303 of the FDIC's Rules and Regulations, 12 C.F.R. §303.100 *et seq.*

[.2]2. To ensure both compliance with this ORDER and to facilitate having and retaining qualified management, the board of directors of the Insured Institution shall, within 60 days from the effective date of this ORDER, undertake an in-depth analysis and review of the Insured Institution's managerial requirements and make a written report ("Management Report") on the Insured Institution's management needs. The Management Report shall incorporate an analysis of the Insured Institution's management and staffing requirements and shall, at a minimum:

(i) provide a review of the composition, policies and practices of the Insured Institution's current operating management;

(ii) provide a recommendation of whether current operating management should be changed, or the terms and conditions under which current operating management should be continued;

(iii) provide an evaluation of each Insured Institution officer indicating whether these officials possess the ability, experience and other qualifications required to perform present and anticipated duties, including adherence to the Insured Institution's established policies and practices and maintenance of the Insured Institution in a safe and sound condition;

(iv) identify both the number and type of positions needed to properly supervise the Insured Institution's lending functions, giving appropriate consideration to the Insured Institution's loan volume, customer base and the number of problem credits;

(v) provide a clear and concise description of the general duties and responsibilities
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for each Insured Institution officer and their key support staff;

(vi) identify the skills, experience and compensation required for each position;

(vii) establish a plan to recruit, hire and/or replace personnel based on ability and experience;

(viii) establish a plan providing for periodic evaluation of each individual's job performance; and

(ix) provide for periodic review of the Insured Institution's management.

(b) The board of directors of the Insured Institution shall obtain the services of an outside consultant, acceptable to the FDIC, who is knowledgeable in the area of bank management, and personnel evaluation to assist the board of directors in reviewing the Insured Institution's management needs and preparing the Management Report. The acceptability of the consultant shall be based on the consultant's ability to advise the Insured Institution in each of the areas identified in paragraph 2(a).

(c) Within 90 days from the effective date of this ORDER, the board of directors of the Insured Institution, with the assistance of the outside consultant, shall prepare a written plan of implementation ("Plan") addressing the findings of the Management Report. The Plan shall specify the actions to be taken by the board of directors and the time frames for each action.

(d) Within 120 days from the effective date of this ORDER, the board of directors of the Insured Institution shall prepare a written report ("Written Report") which shall contain (i) a recitation identifying the recommendations made by the outside consultant which have been incorporated in the Management Report and Plan; (ii) a recitation identifying the recommendations made by the outside consultant which were not incorporated in the Management Report and Plan and the reasons for not including such recommendations; and (iii) a copy of any report prepared by the outside consultant.

(e) Promptly after preparation of the Management Report, Plan, and Written Report, but no later than 125 days from the effective date of this Order, a copy of the Management Report, Plan, and Written Report shall be submitted to the Regional Director for review and comment. Within 30 days from receipt of any comment, and after consideration of such comment, the board of directors of the Insured Institution shall approve the Management Report and Plan, which approval shall be recorded in the minutes of the meeting of the board of directors. It shall remain the responsibility of the board of directors to fully implement the Plan within the specified time frames. In the event the Plan, or any portion thereof, is not implemented, the board of directors shall immediately advise the Regional Director, in writing, of the specific reasons for deviating from the Plan.

[.3]3. Immediately upon the effective date of this ORDER, the Insured Institution shall: (a) not enter into any agreements with present and former officers of the Insured Institution which constitute "golden parachute payments", as defined in section 18(k)(4) of the Act, 12 U.S.C. §1818(k)(4); (b) rescind all agreements or portions of agreements with present and former officers of the Insured Institution which constitute "golden parachute payments"; (c) cease making any payments to present and former officers of the Insured Institution which constitute "golden parachute payments"; and (d) take whatever legal steps are necessary to obtain reimbursement from all former officers of the Insured Institution of any payments which have already been made to them and which constitute "golden parachute payments".

[.4]4. Within 60 days from the effective date of this ORDER, the Insured Institution shall develop, adopt and implement a written ethics policy and procedure with regard to the ethical conduct and other standards of conduct and responsibilities for its directors, officers, employees, agents and other persons participating in the conduct of the affairs of the Insured Institution ("Ethics Program"). At a minimum the Ethics Program shall address the following:

(a) Ethical and other conduct and responsibilities of individuals in:

(i) the acceptance of gifts, entertainment, favors and loans;

(ii) the use of official information;

(iii) the employment of relatives;

(iv) the use of Insured Institution property;

(v) incurring travel expenses; and

(vi) repaying or satisfying or meeting the obligations of indebtedness to the Insured Institution or any other financial institution.

(b) The financial interests and obligations

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of individuals that appear to conflict with that individual's duties and responsibilities such as:

(i) Participating in any manner in any transaction or loan in which the individual, the individual's spouse, child, partner, or organization is involved; or in which the individual serves as an officer, director, trustee, partner, or employee, or has a financial interest;

(ii) Purchasing of Insured Institution property;

(iii) Providing goods or services to the Insured Institution; and

(iv) Outside employment and other activities.

(c) An annual written method of reporting each individual's compliance with the Ethics Program to an Ethics Counselor and/or committee who shall review compliance with the Ethics Program and report his findings to the Board of Directors.

[.5]5. The Insured Institution shall conduct a review (the "Review") of cash transactions, sales of monetary instruments, and funds transfer activity within the Insured Institution. The Review shall be designed to determine whether suspicious activity involving accounts or transactions at, by, or through the Insured Institution was properly identified and reported by the Insured Institution in accordance with applicable suspicious activity reporting regulations, and to evaluate compliance with the currency transaction reporting requirements of the BSA and the rules and regulations thereunder.

(a) Within 30 days from the effective date of this ORDER, the Insured Institution shall submit to the Regional Director an acceptable written plan for the Review, which shall cover all transactions during the period January 1, 2001 through the date of this ORDER. The plan shall set forth the proposed methodology for the Review; the types of accounts, transactions, and banking activities to be reviewed; the proposed resources to be dedicated to the Review; the scope of the written report covering the Review; and the expected date of completion of the Review, not to exceed 90 days from the effective date of this ORDER.

(b) Within 120 days from the effective date of this ORDER, the Insured Institution shall submit to the Regional Director:

(i) A written report setting forth the findings, conclusions, and recommendations of the Review; and

(ii) An acceptable written plan setting forth the actions the Insured Institution will take to respond to the findings, conclusions, and recommendations.

(c) Upon completion of the Review, the Insured Institution shall ensure that all transactions previously required to be reported have been reported in accordance with applicable regulations and guidelines.

(d) The Insured Institution shall maintain all work papers, work product, drafts and interim reports relating to the Review so that they may be available to the FDIC and the Banking Department upon request.

[.6]6. Within 30 days from the effective date of this ORDER, the Insured Institution shall establish an adequate plan to comply in all material respects with BSA, Part 353 and section 326.8 of the FDIC's Rules and Regulations, 12 C.F.R. Part 353, §326.8 and Part 300. Thereafter, the Insured Institution shall comply in all material respects with the plan. Such plan shall include, at a minimum, taking the following measures:

(a) eliminate and/or correct the violations of BSA, 12 C.F.R. Part 353, and §326.8 and as cited in the ROE;

(b) establish and maintain an effective internal compliance program and system of internal controls pursuant to section 326.8 of the FDIC's Rules and Regulations, 12 C.F.R. §326.8 including, but not limited to:

(i) monitoring of incoming and outgoing funds transfers by both account holders and non-account holders for suspicious or unusual activities;

(ii) monitoring of purchases of monetary instruments by both account holders and non-account holders for suspicious or unusual activities;

(iii) establishing a system to ensure compliance with the recordkeeping and reporting requirements for currency transactions over \$10,000 and that is capable of aggregating multiple cash transactions for any one business day, or other appropriate business period, from all branches by account number, by name(s) of the account holder(s), and by transactor(s), and identifying

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any cash transactions that may have been structured to avoid currency transaction reporting requirements; and

(iv) identifying and verifying the identify of account holders and transactions as required for recordkeeping and reporting of currency transactions over \$10,000.

(c) provide for a test for compliance with BSA pursuant to section 326.8 of the FDIC's Rules and Regulations, 12 C.F.R. §326.8, using a qualified, trained, and experienced third party, such as an independent public accountant or specialist in this subject matter, who is not, in any manner, affiliated with the Insured Institution. Thereafter, such independent testing shall be conducted on an annual basis. Written reports documenting the testing results and providing recommendations for improvements shall be prepared and presented to the Insured Institution's Board of Directors and noted in official Board minutes;

(d) designate a qualified individual or individuals responsible for coordinating and monitoring day-to-day compliance with BSA pursuant to section 326.8 of the FDIC's Rules and Regulations, 12 C.F.R. §326.8. Such individual or individuals shall: (i) have sufficient executive authority to monitor and ensure compliance with BSA and section 326.8 of the FDIC's Rules and Regulations,

12 C.F.R. §326.8; (ii) report directly to the Insured Institution's Board of Directors; (iii) be completely independent of the Insured Institution's senior management; and (iv) be responsible for assuring the proper filing of Currency Transaction Reports, Reports of International Transportation of Currency or Monetary Instruments, and Suspicious Activity Reports relating to BSA;

(e) provide training for appropriate personnel pursuant to section 326.8 of the FDIC's Rules and Regulations, 12 C.F.R. §326.8. This training shall ensure that all appropriate personnel are aware of, and comply with, the requirements of BSA including the currency and monetary instruments reporting requirements and the reporting requirements associated with Suspicious Activity Reports; and

(f) The Board of Directors shall monitor and confirm the completion of actions taken by management to comply with the terms of this paragraph. The Board of Directors shall certify in writing to the Regional Director when all of the above actions have been accomplished. All actions taken by the Board of Directors pursuant to this paragraph shall be duly noted in the minutes of its meeting.

[.7]7. Within 45 days from the effective date of this ORDER, the Insured Institution shall establish and implement policies and procedures to advise the Board of Significant Suspicious Activity Report ("SAR") filings. At a minimum, the Board should be advised in detail of all SAR filings involving employees, contractors, officers and members of the board. The policies and procedures shall also include guidelines to determine what SAR filings are significant.

[.8]8. Within 45 days of the effective date of this ORDER, the Insured Institution shall develop, adopt and implement a written customer due diligence program. Such program and its implementation shall be in a manner acceptable to the Regional Director, as determined at subsequent examinations and/or visitations of the Insured Institution. At a minimum, the customer due diligence program shall provide for the following:

(a) A risk focused assessment of the customer base of the Insured Institution to determine the appropriate level of enhanced due diligence necessary for those categories of customers that the Insured Institution has reason to believe pose a heightened risk of illicit activities at or through the Insured Institution; and

(b) For those customers whose transactions require enhanced due diligence, procedures to:

(i) determine the appropriate documentation necessary to confirm the identity and business activities of the customer;

(ii) understand the normal and expected transactions of the customer; and

(iii) reasonably ensure the identification and timely, accurate and complete reporting of known or suspected criminal activity against or involving the Insured Institution to law enforcement and supervisory authorities, as required by the suspicious activity reporting provisions of Part 353 of the FDIC's Rules and Regulations, 12 C.F.R. Part 353.

[.9]9. Within 30 days from the effective date of this ORDER, the Insured Institution shall amend its audit policies, procedures, and practices, both with regard to internal audits and with regard to external audits, so that the Insured Institution's compliance with
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BSA, Part 353 and 31 C.F.R. Part 103 become subject to periodic review as part of the Insured Institution's routine auditing. As long as this ORDER shall remain in effect, the Insured Institution's internal and external audits shall include reviews of these areas, with significant exceptions reported directly to the Insured Institution's Board of Directors.

[.10]10. Within 60 days from the effective date of this ORDER, the Insured Institution shall review its written loan policy and make whatever changes may be necessary to provide for the safe and sound administration of all aspects of the lending function. Specific procedures shall be included for prior approval of loans to directors, officers and principal shareholders and their related interests in compliance with applicable laws and regulations. Loan documentation, repayment programs, collection and charge-off procedures and internal loan review shall also be included as a part of the reviews. The Insured Institution shall adopt changes it considers necessary and appropriate and management shall reaffirm its

intent to comply with the policy, as amended. Evidence of management's reaffirmation shall be reduced to writing. The policy and its implementation shall be in a form and manner acceptable to the Regional Director.

[.11]11. Within 60 days from the effective date of this ORDER, the Insured Institution shall adopt and implement a written policy for the operation of the Insured Institution in such a manner as to provide internal routine and controls consistent with safe and sound banking practices. Such policy and its implementation shall be satisfactory to the Regional Director as determined at subsequent examinations and/or visitations.

[.12]12. Within 60 days from the effective date of this ORDER, the Insured Institution shall eliminate and/or correct all violations of law which are set out on pages 14 through 23 of the ROE. In addition, the Insured Institution shall henceforth comply with all applicable laws and regulations.

[.13]13. (a) Within 60 days from the effective date of this ORDER, the Board of Directors shall develop, adopt and implement a written profit plan consisting of goals and strategies for improving the earnings of the Insured Institution for each calendar year. The written profit plan shall include, at a minimum:

- (i) The identity of the major areas and means by which the Board of Directors will seek to improve the Insured Institution's operating performance;
- (ii) Realistic and comprehensive budgets;
- (iii) A budget review process to monitor the income and expenses of the Insured Institution to compare actual figures with budgetary projections on not less than a quarterly basis;
- (iv) A description of the operating assumptions that form the basis for, and adequately support, major projected income and expense components; and
- (v) Coordination of the Insured Institution's loan, investment and operating policies, and budget and profit planning with the funds management policy.

(b) Within the first 30 days of each subsequent calendar year, the Board of Directors shall review and modify, as appropriate, the written profit plan. The written profit plan and any subsequent modifications thereto shall be submitted to the Regional Director for review and comment.

[.14]14. Within 30 days from the effective date of this ORDER, the Board of Directors shall establish a committee of the Board of Directors with the responsibility to ensure that the Insured Institution complies with the provisions of this ORDER. At least two-thirds of the members of such committee shall be independent, outside directors. The committee shall report monthly to the entire Board of Directors, and a copy of the report and any discussion relating to the report or the ORDER shall be included in the minutes of the Board of Directors. Nothing contained herein shall diminish the responsibility of the entire Board of Directors to ensure compliance with the provisions of this ORDER.

[.15]15. On the fifteenth day of the second month following the effective date of this ORDER, and on the fifteenth day of every third month thereafter, the Insured Institution shall furnish written progress reports to the Regional Director detailing the form and manner of any actions taken to secure compliance with this ORDER and the results thereof. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Regional Director has released the Insured
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Institution in writing from making further reports.

[.16]16. Within 60 days from the effective date of this ORDER, and annually thereafter, the Board of Directors of the Insured Institution shall review the Insured Institution's investment policy and practices for adequacy and shall make the necessary revisions to address the actual and contemplated condition of the investment portfolio and any trading account. The revised policy shall, at a minimum, address the exceptions noted in the Report and shall be consistent with the FFIEC's Instructions for Consolidated Reports of Condition and Income generally accepted accounting principles, and the Insured Institution's loan, liquidity and asset/liability management policies. A copy of the revised policy shall be submitted to the Regional Director upon its adoption.

The provisions of this ORDER shall be binding upon the Insured Institution, its directors, officers,

employees, agents, successors, assigns, and other institution-affiliated parties of the Insured Institution.

This ORDER shall become effective immediately upon its issuance.

The provisions of this ORDER shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this ORDER shall have been modified, terminated, suspended, or set aside by the FDIC.

Pursuant to delegated authority.

Dated: 9/30/03.

Last Updated 1/11/2004

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